

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

KYLE FINNELL,

Petitioner,

: Case No. 1:17-cv-268

- vs -

District Judge Douglas R. Cole
Magistrate Judge Michael R. Merz

TIM SCHWEITZER, Warden,
Lebanon Correctional Institution,

:

Respondent.

DECISION AND ORDER GRANTING MOTION TO EXTEND TIME

This case is before the Court on Petitioner's Petition to Extend Time from November 22, 2023, until November 27, 2023, to file a memorandum stating whether Petitioner believes the stay of these proceedings should be extended pending decision on his two pending state court actions (ECF No. 175). That Motion is granted.

The same document seeks reconsideration of the Magistrate Judge's refusal to take judicial notice of the content of his pending App. R. 26(B) Application and his pending Petition for Post-Conviction Relief. The Magistrate Judge had refused because, contrary to Petitioner's assertion, these documents were not available to the public on the websites of Hamilton County Court of Common Pleas or the Ohio First District Court of Appeals. Finnell asks for reconsideration because he claims he has furnished the Court with time-stamped copies of those documents (ECF No. 175, PageID 4252). He refers to Exhibit A, but that consists of a copy of an envelope from the Clerk of Courts of Hamilton County, a copy of the cover page only of what is apparently a forty-eight page petition for post conviction relief, and a third page which says the document is

too large to print and refers the read to “our website.” Whatever those words on that page say, the document as filed on June 8, 2023, cannot be accessed from that website by this Court. Therefore the content of the Petition for post-conviction relief is not amenable to judicial notice. Finnell gives no record reference at all to where his App. R. 26(B) application appears in the record.

Accordingly, the Motion for Reconsideration is DENIED.

November 21, 2023.

s/ *Michael R. Merz*
United States Magistrate Judge